

State of New Hampshire Banking Department

In re the Matter of:) Case No.: 07-156
)
State of New Hampshire Banking) Order to Show Cause
)
Department,)
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Petitioner,)
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)
and)
)
Lyons Enterprises Inc.,)
)
)
Respondent)
)

NOTICE OF ORDER

This Order commences an adjudicative proceeding under the provisions of RSA 397-A:17, RSA 541-A, BAN 200 and JUS 800.

LEGAL AUTHORITY AND JURISDICTION

Pursuant to RSA 397-A:17, the Banking Department of the State of New Hampshire (hereinafter the "Department") has the authority to issue an order to show cause why license revocation penalties for violations of New Hampshire Banking laws should not be imposed.

Pursuant to RSA 397-A:21, the Commissioner has the authority to suspend, revoke or deny any license and to impose administrative penalties of up to \$2,500.00 for each violation of New Hampshire banking law and rules.

NOTICE OF RIGHT TO REQUEST A HEARING

The above named respondent has the right to request a hearing on this Order to Show Cause, as well as the right to be represented by counsel at the Respondent's own expense. All hearings shall comply with RSA 541-A. Any such request for a hearing shall be in writing, and signed by the respondent or the duly authorized agent of the above named respondent, and shall be delivered either by hand or certified mail, return receipt requested, to the

1 Banking Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH
2 03301. Such hearings will be scheduled within 10 days of the request. If the
3 Respondent fails to appear at the hearing after being duly notified, such
4 person shall be deemed in default, and the proceeding may be determined against
5 the Respondent upon consideration of the Order to Show Cause, the allegations
6 of which may be deemed to be true.

7 If the Respondent fails to request a hearing within 30 calendar days of
8 receipt of such order or reach formal settlement with the Department within
9 that time frame, then such person shall likewise be deemed in default, and the
10 orders shall, on the thirty-first day, become permanent, and shall remain in
11 full force and effect until and unless later modified or vacated by the
12 commissioner, for good cause shown.

13 **STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF**

14 The Staff Petition dated November 16, 2007 (a copy of which is attached
15 hereto) is incorporated by reference hereto.

16 **ORDER**

17 WHEREAS, finding it necessary and appropriate and in the public
18 interest, and consistent with the intent and purposes of the New Hampshire
19 banking laws, and

20 WHEREAS, finding that the allegations contained in the Staff Petition,
21 if proved true and correct, form the legal basis of the relief requested,

22 It is hereby ORDERED, that the Respondent shall show cause why:

23 1. Administrative penalties of \$5,000.00 should not be imposed;

24 and

25 2. Statutory penalties of \$2,500.00 should not be imposed; and

3. Respondent's license should not be revoked; and

It is hereby ORDERED that:

4. Failure to request a hearing within 30 days of the date of

receipt of this Order shall result in a default judgment being

rendered, license revocation and administrative penalties
imposed upon the defaulting Respondent.

SIGNED,

Dated: 11/16/07

/s/

PETER C. HILDRETH
BANK COMMISSIONER

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- 1 6. On July 10, 2007 the Department notified the Respondent that they
2 were required to publish notice of their license surrender and
3 submit an annual report for 2007.
- 4 7. On August 30, 2007 the Department sent a final notice to the
5 Respondent to the same effect.
- 6 8. To date the Respondent has failed to file the financial statement
7 or properly publish a notice of their license surrender.

8

9 ISSUES OF LAW

10 II. The staff of the Department, alleges the following issues of law:

- 11 1. The Department has jurisdiction over the licensing and
12 regulation of persons engaged in mortgage broker activities
13 pursuant to NH RSA 397-A:3.
- 14 2. RSA 397-A:13 II provides that a licensee shall file its
15 financial statement within 90 days from the date of its fiscal
16 year end. The Respondent violated this provision by failing to
17 submit its financial statement.
- 18 3. RSA 397-A:13 IV provides that any mortgage broker which fails to
19 file its financial statement within the time prescribed may be
20 required to pay to the department a penalty of \$25.00 for each
21 calendar day the statement is overdue up to a maximum penalty of
22 \$2,500.00.
- 23 4. RSA 397-A:10-a I (a) provides that a licensee who ceases to
24 engage in the business of a mortgage broker shall cause to be
25 published in a newspaper of general circulation in the

licensee's market area a notice of such effect. The Respondent failed to provide proof of such a publication.

5. RSA 397-A:10-a II provides that failure to comply with RSA 379-A:10-a I shall be cause for denial of future license applications and the imposition of penalties under RSA 397-A:21.

6. RSA 397-A:21 IV provides that any person who, either knowingly or negligently, violates any provision of Chapter 397-A, may upon hearing, and in addition to any other penalty provided for by law, be subject to suspension or revocation of their license or an administrative fine not to exceed \$2,500.00, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal penalties or civil liabilities imposed by New Hampshire Banking laws.

RELIEF REQUESTED

III. The staff of the Department requests the Commissioner take the following Action:

1. Find as fact the allegations contained in section I of this petition;
2. Make conclusions of law relative to the allegations contained in section II of the this petition;
3. Order Respondent to Show Cause why its license should not be revoked;
4. Assess fines and administrative penalties in accordance with RSA 397-A:21, for violations of Chapter 397-A, in the number

1 and amount equal to the violations set forth in section II of
2 this petition; and

3 5. Take such other administrative and legal actions as necessary
4 for enforcement of the New Hampshire Banking Laws, the
5 protection of New Hampshire citizens, and to provide other
6 equitable relief.

7 **RIGHT TO AMEND**

8 IV. The Department reserves the right to amend this Staff Petition and
9 to request that the Commissioner take additional administrative
10 action. Nothing herein shall preclude the Department from bringing
11 additional enforcement action under RSA 397-A or the regulations
12 thereunder.

13 Respectfully submitted by:

14
15 /s/
16 James Shepard
Staff Attorney

11/16/07
Date